

# McNamara Declaration

## Exhibit 27

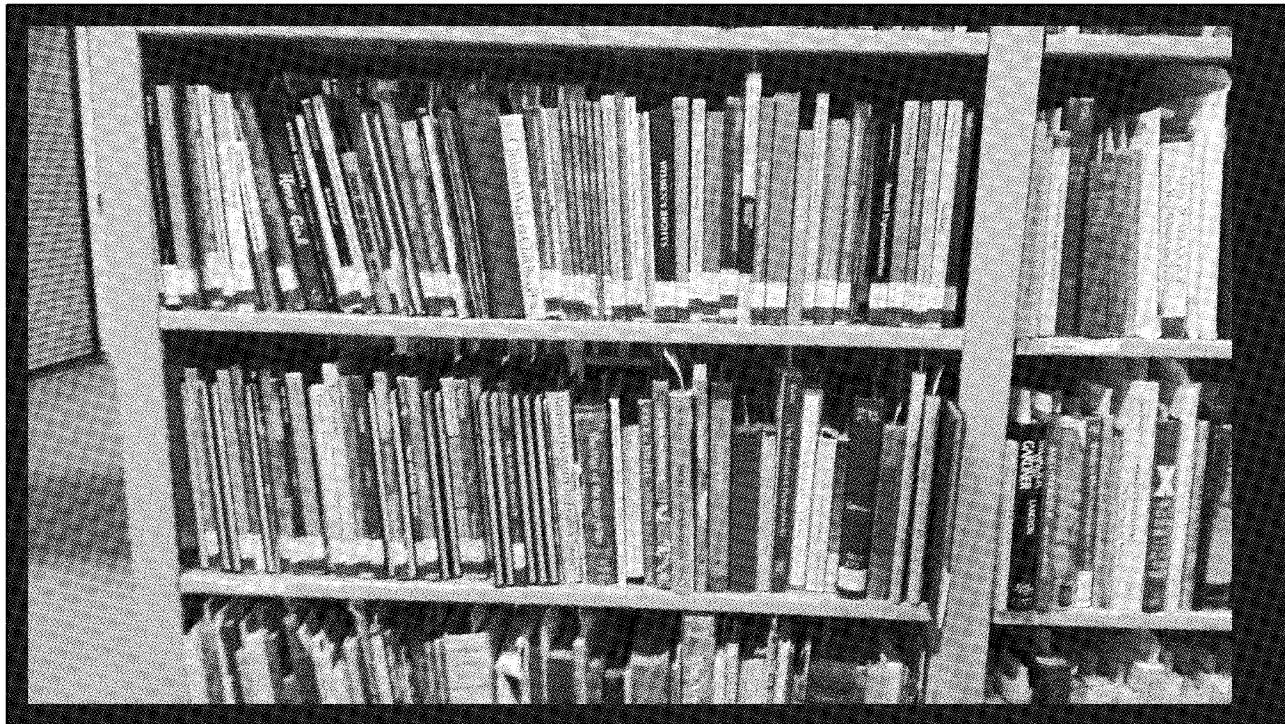
part 5

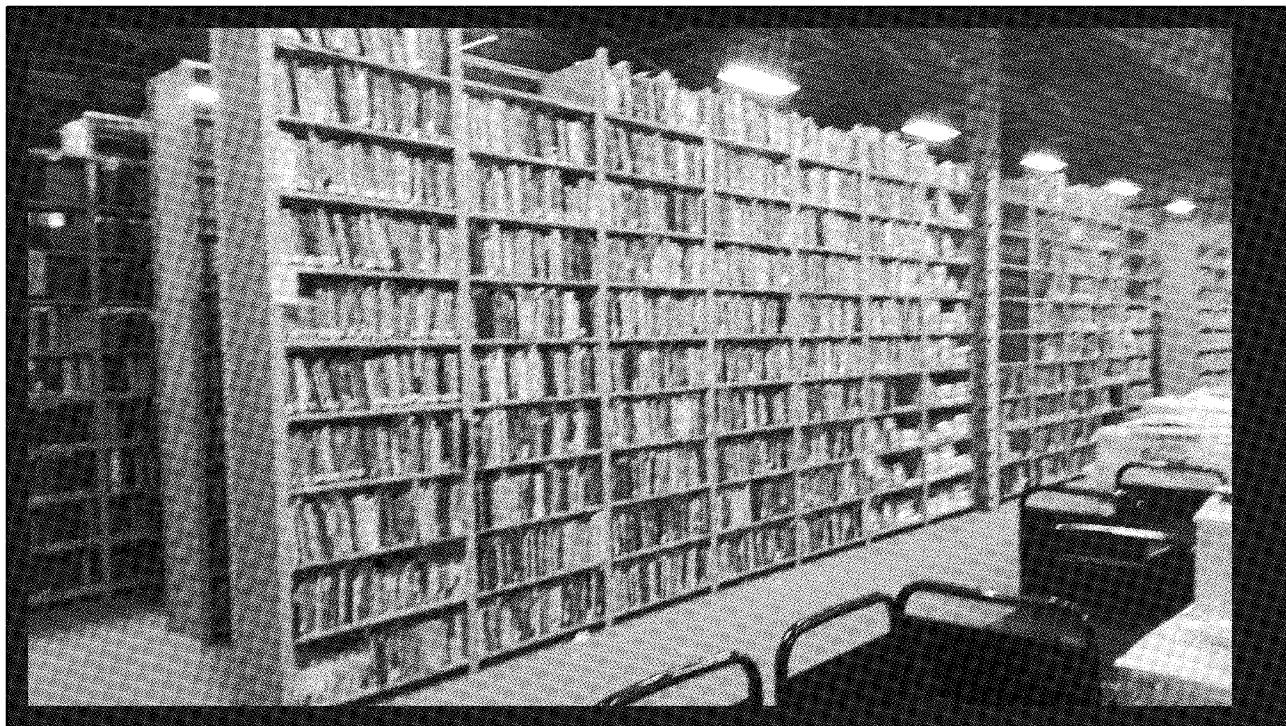
## What Comes Next

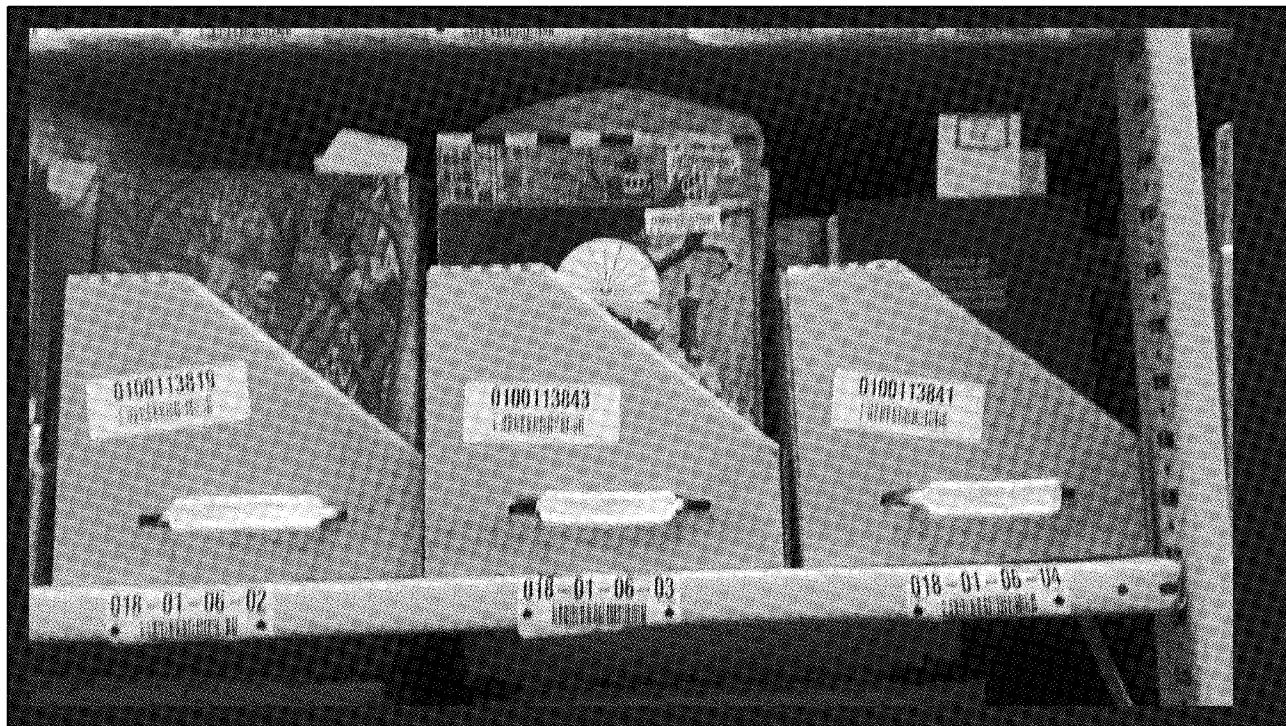
- Pilot USL in 2-3 districts to troubleshoot technical and policy barriers
- Continue building the collection and developing interface
- Establish partnerships with high-need districts
- Identify foundations and district partners with resources
- Reach 15,000 book goal
- Establish USL as a foundation for more equitable library access!

# Boston Public Library's Alice Jordan Collection

Tom Blake  
Manager of Content Discovery







Boston Public Library Jordan Collection

Alice Jordan was the first Supervisor of Children's Services in the Boston Public Library. Historic, contemporary, and international titles are included with the complete works of authors and illustrators represented as well as various editions of NODC.

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[https://archive.org/details/bostonpubliclibraryjordancollection](#)

46,369 items

Sort by: VIEWS • TITLE • DATE PUBLISHED • CREATOR

Basic Item Collection	Metadata	Text content
<input type="radio"/> Basic Item Collection	<input checked="" type="radio"/> Metadata	<input type="radio"/> Text content
<a href="#">View Details</a>		

Part of: Open Library

Media Type:  Texts (46,369)

Availability:  Available to Borrow (45,033)  Wheeler (1,336)

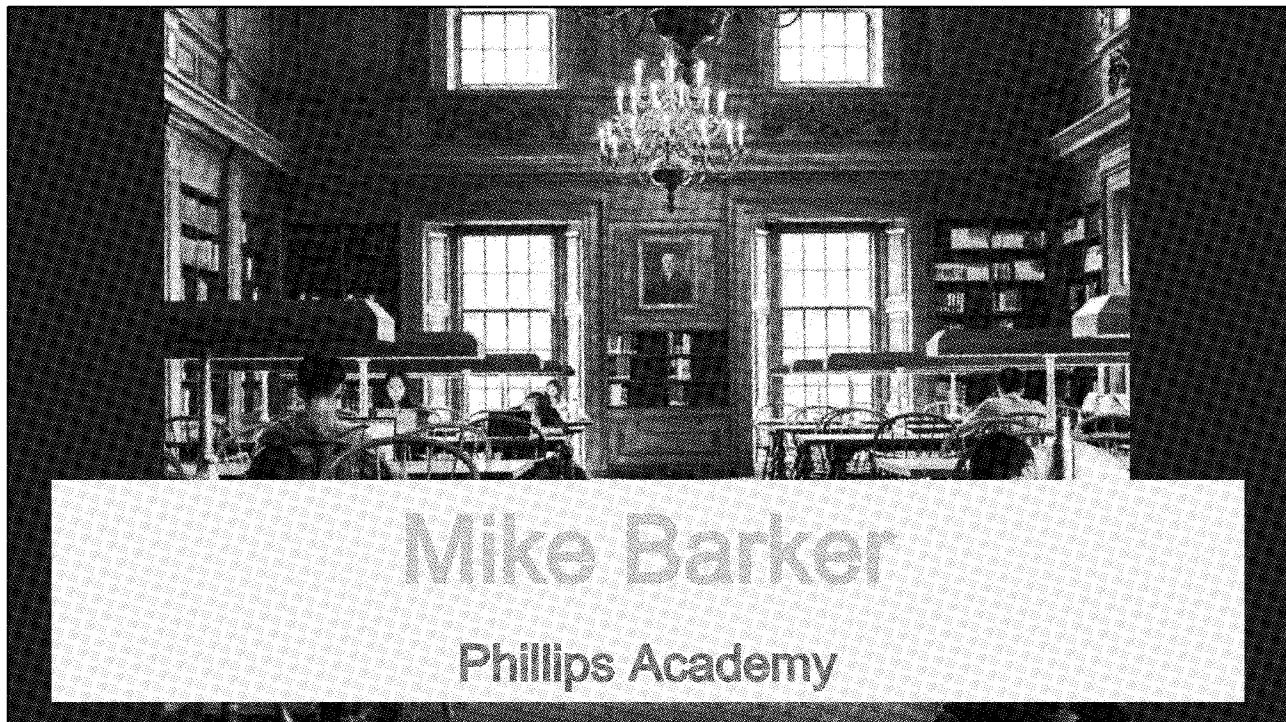
Year:  1899 (3,659)  1898 (5,936)  1897 (3,471)  1896 (3,474)  1895 (2,785)  1894 (2,675)  More... [View Details](#)

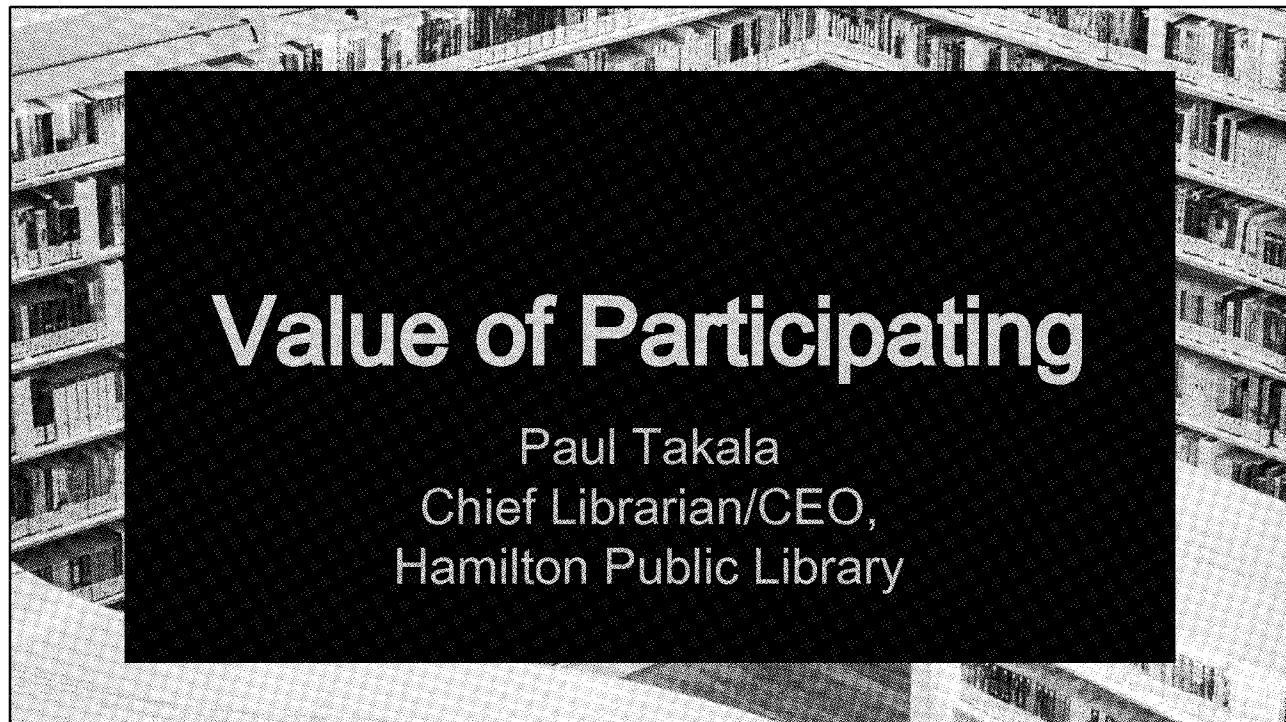
Books & Subjects: [View Details](#)

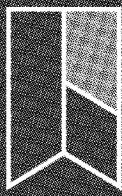
[Raggedy Ann](#) [The Louisa May Alcott Library](#) [Rose in Bloom](#) [The Christ Child](#) [Orange fairy book](#)

[Raggedy Ann and Andy and the Camel with the Long Nose](#) [Rose in bloom](#) [Nitty, her first hundred years](#) [The Christ child, as told by Matthew and Luke](#) [Orange fairy book](#)

[WINTER HOLIDAY](#) [THE STORY OF PING](#) [GAMMER GUGGENHEIM](#) [Münchhausen](#) [Brüder Grimm](#)







Hamilton  
Public  
Library

## Why HPL is Embracing Participation in IA

Paul Takala – October 2019

FREEDOM TO DISCOVER

HPL.CA

151



## PRESENTATION OUTLINE

1. Introduce myself and the Hamilton Public Library
2. Share high level challenges facing digitization efforts in Canadian libraries & memory institutions
  - *Participating in Open Library & CDL best approach to address some of these challenges*
3. Overview of our legal opinion in the Canadian Context
4. Where we are and where we are going with CDL



## ABOUT ME

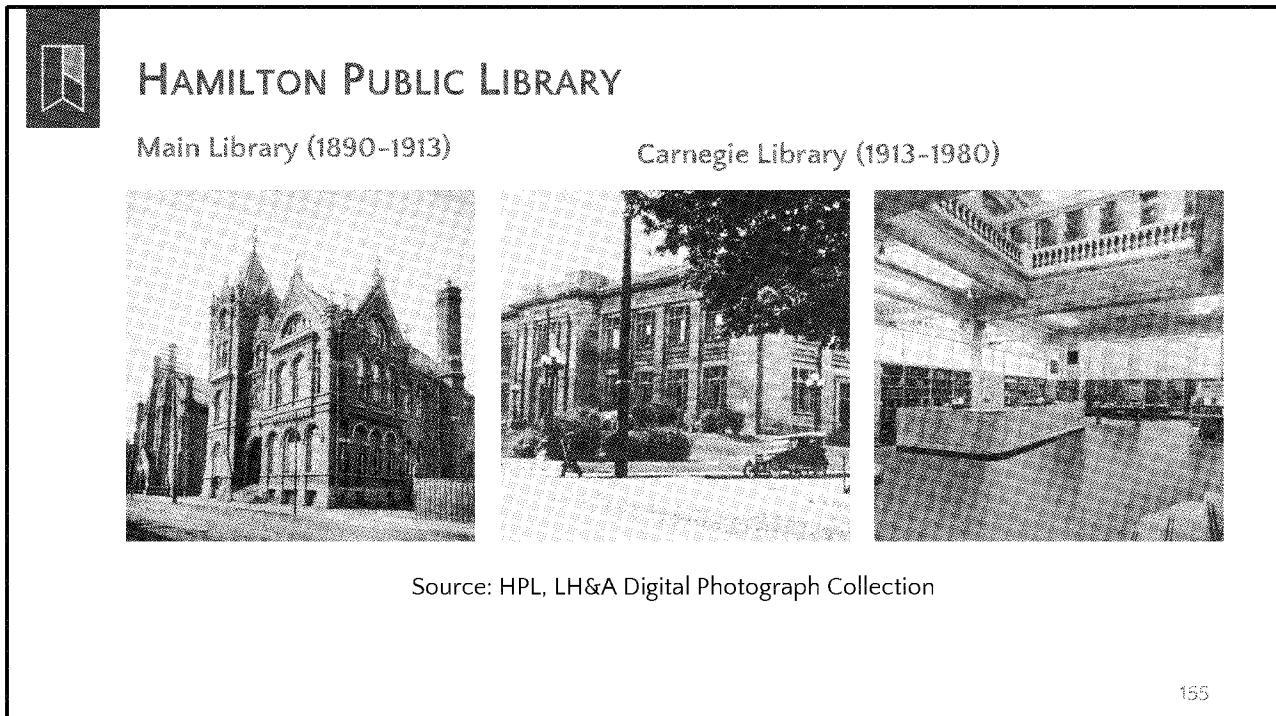
- \* Graduated **University of Toronto** – iSchool 1994
- \* **New York Public Library** (1994–1999) – Reference Librarian, Systems Analyst, Web Coordinator
- \* **Wentworth County Library** (1999–2000) – IT Director
- \* **Hamilton Public Library** (2001 – present ) – IT Manager, IT Director, CEO/Chief Librarian (since 2012)
  
- \* Current Chair of the Canadian **National Heritage Digitization Steering Committee (NHDS)**
- \* Past Chair of **Canadian Urban Library Council (CULC)**
- \* Past Chair of the **Canadian Federation of Library Associations (CFLA)**



## ABOUT HPL

- Hamilton, Ontario is a port city on the westernmost tip of Lake Ontario
- Part of the Golden Horseshoe, Hamilton is among the largest cities in Ontario, 535,000 residents
- HPL operates 22 branches & 2 bookmobiles across 439 mi<sup>2</sup>/1137 km<sup>2</sup>
- HPL founded in 1889, reborn in 2001 after municipal amalgamation
- Annual operating budget \$32 million
- Long history of innovation and collaboration

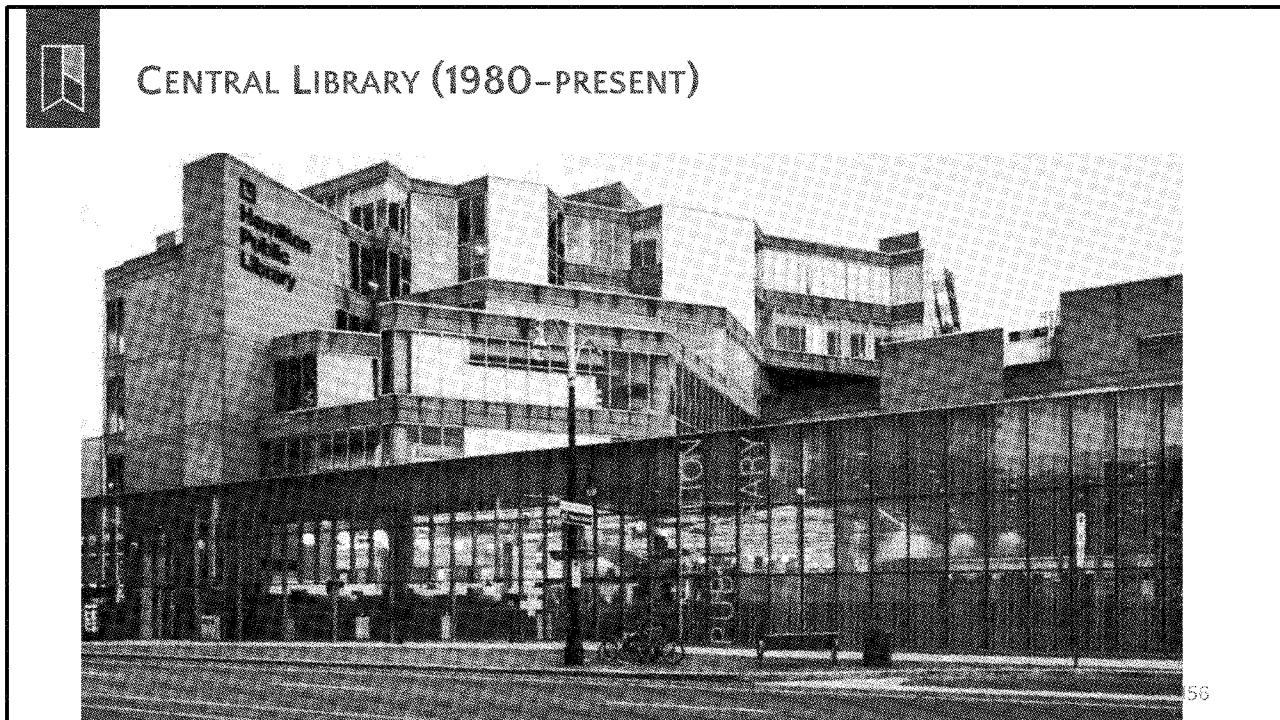




155

- The Hamilton Public Library (HPL) is one of the oldest public libraries in the province of Ontario. In 1889, the citizens of Hamilton voted to fund a free public library in the city and its first Main Library opened in 1890. From the beginning, one of the library's mandates was to collect and make available material regarding Canadian and local history.
- In 1913, a new Carnegie-funded Main Library opened with a "Canadiana Room" that housed a distinct collection of historical materials of local and national interest. In 1974, the Special Collections department was formed by amalgamating the Local History, Canadiana, Archival and Rare Books collections

155

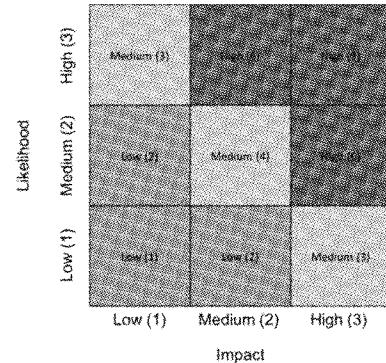


156



## ISSUES THAT WE NEED TO ADDRESS IN CANADA

- \* **Working in SILOS** – Libraries are recreating infrastructure & interfaces to manage access to digital content
  - \* Waste of limited resources
  - \* Interfaces & search functionality often not best in class
  - \* **Discovery is a problem for the public**
- \* **Deeper Collaboration is Needed**
  - \* Horizontal government initiatives are usually not adequately funded
- \* **Overly risk averse**
  - \* Libraries have generally taken an extremely risk averse approach to Copyright
  - \* Need to take a more balanced view of risk





## NOT EXERCISING OUR RIGHTS UNDER FAIR DEALING

THE FUTURE Now, CANADA'S LIBRARIES, ARCHIVES, AND PUBLIC MEMORY

The Royal Society of Canada's Expert Report on Libraries – 2014

Libraries and archives make full use of their users' rights of fair dealing and the additional specific exceptions and limitations to copyright to engage in productive initiatives such as digitization of collections in analogue media, providing private study copies to patrons, and otherwise using the flexibility provided by the law as appropriate.

**HPL's MEETING USER NEEDS IV** – Five long-term challenges, opportunities (Key Assumptions from 2017)

Network security, privacy and intellectual property issues will become more challenging. With content we control, we have an opportunity to model best practices that facilitate effective sharing that creates the maximum benefit to society

[https://rsc-src.ca/sites/default/files/L%26A\\_Report\\_EN\\_FINAL\\_Web.pdf](https://rsc-src.ca/sites/default/files/L%26A_Report_EN_FINAL_Web.pdf)  
<https://www.hpl.ca/articles/strategic-priorities-2018-2021>

Are we overly risk-averse?

- Worst-case scenarios
- Reliance upon theory, not experience
- Overstatements of impact
- Site mentality
- Fear of the new

158

158



## LEGAL OPINION ON CDL IN THE CANADIAN CONTEXT

### Marcel D. Mongeon

- **Ross, Mongeon, Covello & Co. – Professor & Lawyer**
- Specializes in: Alternative Dispute Resolution, Corporate & Commercial Law, Intellectual Property
- Called to the bar: 1984 (ON); 1985 (QC); 1996 (NY)



### Questions Asked

1. Will the use of the CDL System at the HPL be considered infringement of copyright of material that is distributed through the System?
2. Will participation in Open Library by the HPL be considered infringement of copyright of material that is distributed through the Open Library?
3. What are the potential penalties for copyright infringement in the event that the activities of the HPL, in using the CDL System, or participation in Open Library, were determined to be an infringement of copyright?
4. How can downside risks of using the CDL System and participation in Open Library be mitigated



## ABOUT THE OPINION

### Timeline for Release

- \* Legal Opinion scheduled to be published as part of our Library Board package on November 15 or December 13
- \* Sharing with allies now

### Summary of Opinion

....I am of the opinion that the Hamilton Public Library's use of the CDL System and participation in Open Library for Old Copyrighted Material – as I define that term below – will not infringe the copyright of the owners in those works.

### Canadian Law is Not the Same as US Copyright Law

- \* Collective Societies can manage tariffs on behalf of a group of copyright holders
  - \* York University and Access Copyright case is being watched closely
- \* Fair Dealing is similar but not the same as Fair Use



## FAIR DEALING IS SIMILAR ≠ FAIR USE

### Supreme Court of Canada Ruling on Fair Dealing

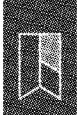
Fair dealing requires a defendant to prove: (1) that the dealing was for the purpose of either research or private study and (2) that it was fair.

Both issues are further analyzed as follows: 'research' is given a broad meaning; even if the research is for a for-profit motive such a lawyer practising law, it is nonetheless research. 'Fair' is considered as a question of degree. Six factors are considered in establishing if it is 'fair'.

These are:

- (1) the purpose of the dealing;
- (2) the character of the dealing;
- (3) the amount of the dealing;
- (4) alternatives to the dealing;
- (5) the nature of the work; and
- (6) **the effect of the dealing on the work.**

\* It is the last condition, the impact of the use on copyright holders that requires us to focus on "Older Copyrighted Material"

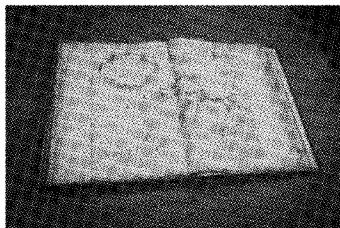


## WHAT'S GOING ON AT HPL

- \* Integrating our **catalogue with the Open Library**
  - \* Polaris, BiblioCommons – ZEPHEIRA made that painless
  - \* Working on showing IA titles that are already in our catalogue
  - \* Going to be linking to all IA titles in our catalogue
- \* HPL will become a **scanning centre**, along with McMaster University Library
  - \* Scribe Book Scanner is coming
  - \* Sharing an IA staff member with McMaster
- \* Focus on older unique titles no longer in copyright
- \* Older titles currently in copyright
  - \* Implement procedures to manage the risk



## CANADIANA COLLECTION



### Canadiana Collection

The Canadiana collection includes books about Canada, written by Canadians, published by Canadians, or having something to do with the history of Canada.

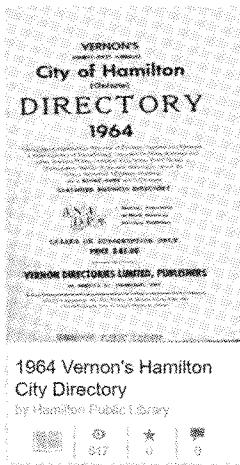
Major collecting strengths in this collection include sections of early exploration in Canada, featuring such well known books as Travels in Canada and the United States in 1816 and 1817 by Francis Hall, Five Years Residence in the Canadas by Edward Allen Talbot, published in 1824, A Theatrical Trip for a Wager! by Horton Rhys, published in 1861, Travels Through the Canadas by George Heriot, published in 1813, and Anbury's Travels Through the Interior Parts of America, published in 1791. Some of these books contain early descriptions of the Hamilton area and are excerpted in the Heritage Day Speech entitled Greetings from Hamilton.

Other books in the Canadiana Collection include a large amount of early Canadian fiction, township and county histories, military lists, year books, Parliamentary companions, biographies, autobiographies, and books of many other types. These fascinating examples of Canadiana span from 1708 to the present.

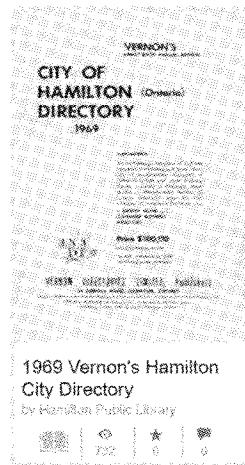
163



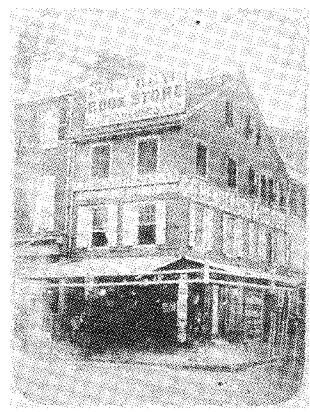
## CITY DIRECTORIES & RARE BOOKS



1964 Vernon's Hamilton  
City Directory  
by Hamilton Public Library



1969 Vernon's Hamilton  
City Directory  
by Hamilton Public Library



**Uncle John's Stories of Animals**  
 Book published in Philadelphia in 1856 – rare 2<sup>nd</sup> Edition  
 Source: <https://libwww.freelibrary.org/digital/item/2624>

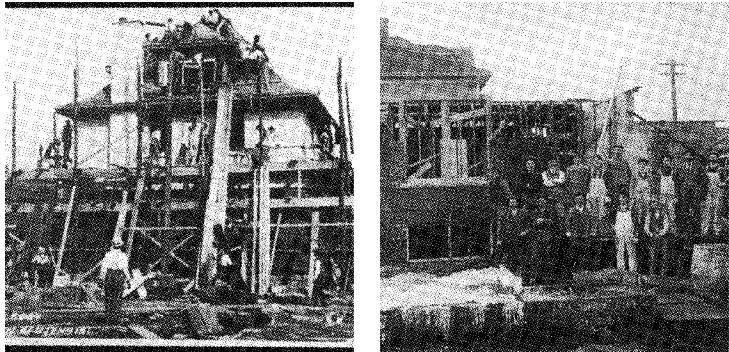
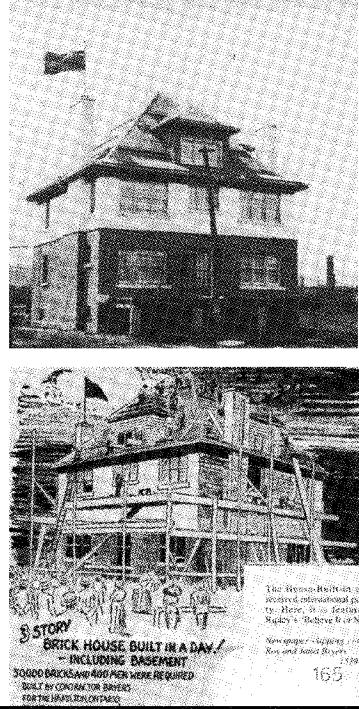
164

- The LH&A also houses a Rare Books Collection consisting of old, unusual and rare books that were acquired either through transfer from the regular library collection for safekeeping or through the donation of specific units of books. Given their age and relative rarity, many of the books in this collection are good candidates for digitization. As an example, we've digitized this small 19<sup>th</sup> century children's "panorama picture book" manufactured and published in Philadelphia in 1856. "Uncle John's Stories of Animals" was originally published in 1849, however, this edition of the book is the rarer 2<sup>nd</sup> edition with revised and additional content. Indeed, our initial surveys found that the LH&A copy of this edition is the **only** copy held by **any** library. Additionally, this book was a good case for digitization because the binding had degraded to the extent that significant physical intervention would now be needed to preserve it in its original form.



## THEMATIC SCRAP BOOKS

The House Built in a Day

Source: HPL, LH&A Digital Photograph Collection

One of LH&A's unique holdings is a collection of Scrapbooks comprised of news clippings on hundreds of thematic subjects relevant to Hamilton's history. As an example, we digitized our scrapbook on "The House Built in a Day" to complement previously digitized images from our collection of historical photographs. As part of the city's centennial celebrations in 1913, a proposition was put forward to build an entire house in full over a 24 hour period. This had never before been attempted in Canada and it required the buy-in and support of the local trade unions who supplied the 400 skilled tradesmen volunteers in order to make the project a reality. And on the 13<sup>th</sup> of August 1913 after 23 hours, the house was fully built.



Source: The Hamilton Spectator, <https://www.thespec.com/opinion-story/9309661-graham-rockingham-hamilton-public-library-s-archives-prove-steeltown-is-a-city-of-song/>

166

### Paragraph 3 – The Hamilton Savoyards Operatic Society

- One of LH&A's newer collections is the Hamilton Music Archive which was established to align with the city's official Music Strategy of celebrating "all things music" in Hamilton. The city has a rich musical legacy as well as thriving and vibrant local music scene and the LH&A is uniquely positioned to document it. Using seven seed collections, the Hamilton Music Archive spans 100+ years ranging in music genres from Opera to Rock to County. A recent acquisition by the LH&A is the Hamilton Savoyard Operatic Society fonds. Founded in 1929, the Hamilton Savoyards staged Gilbert and Sullivan's Victorian comedic operas and later a variety of theatrical productions until their merger with the Hamilton Theatre Company in 1971. As an example, we've digitized several documents about the Savoyards 1955 production of the operetta, "The Merry Widow

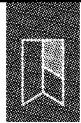
166



## NEXT STEPS FOR HPL

- \* Continuing to **advocate for better terms** from publishers (ULC, CULC)
- \* **Promoting CDL, IA and Open Library** in Canada – sharing our legal opinion
- \* Develop a robust work flow to support ongoing addition of unique materials
- \* Using CDL for **Interlibrary Loan**
  - \* Need to meet the criteria of “older”
- \* Using **IA as a way of cross collaboration**
  - \* Liberian Learning Centre – HPL's sister library
  - \* Six Nations Indigenous Library
- \* **Longer term** – Looking for offsite, secure, climate controlled storage
  - \* Expand display space & space for customers in our Local History
  - \* HPL is part of Hamilton Museum effort





## QUESTIONS?

Paul Takala, Chief Librarian/CEO, Hamilton Public Library

55 York Blvd, Hamilton, ON. L8N 4E4

[ptakala@hpl.ca](mailto:ptakala@hpl.ca), 905-546-3215, [www.hpl.ca](http://www.hpl.ca)

As public servants, let's focus on finding solutions to problems,  
Not problems with solutions.

Gil Penalosa

# Next steps

Fri or early next week - recap of our day  
-Talk with Caralee if you have

Next week: Hill visits

## Appeal

- Endorse CDL
- Join Open Libraries
- Donate materials
- Help us with direction on serials

# Acknowledgements

In-library scanning

# Talk with Caralee

2:30pm - 3:00pm

## Tours

SFPL.org/tours

Meet at Information Desk

Special Collections 3pm - 4pm

Meet at SF History Center, Skylight Gallery, 6th Floor

